

REMARKS

In the office action mailed from the United States Patent and Trademark Office April 4, 2006, the Examiner objected to the drawings under 37 C.F.R. § 1.83(a); noted informalities in the specifications on page 10; objected to claims 8 and 12; rejected claims 1, 6 and 15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent number 6,391,005 (“Lum”); rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Lum in view of U.S. patent number 3,784,908 (“Anderson”); rejected claims 3-4, 7 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Lum; rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Lum in view of U.S. Published Patent Application No. 2004/0133081 (“Teller”); rejected claims 8, 10 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Lum in view of Anderson; and rejected claims 9 and 13-14 under 35 U.S.C. § 103(a) as being unpatentable over Lum in view of Anderson and Teller.

Claim Objections

In the pending office action, claims 8 and 12 were objected to because of formalities. Applicants have respectfully amended claims 8 and 12 to appropriately depend from claims 7 and 11 respectively. Additionally, Applicants have amended claims 9, 10, 13 and 14 to likewise depend appropriately from the antecedent independent claims. Accordingly, Applicants respectfully request withdrawal of the claim objections.

Rejections under 35 U.S.C. 102

Enclosed, herewith, please find drawing sheets in compliance with 37 C.F.R. 1.121 (d) as required by the office. In particular, please note that reference character 39 has now been indicated in Figure 5b; that reference character 49 has now been indicated in Figure 5b; that reference character 61 has now been indicated in Figure 6; and that reference character 69 has now been indicated in Figure 6. Accordingly, applicant respectfully submits that the drawings are now in compliance with 37 C.F.R. 1.121 (d) and respectfully request that in the objections related to the drawings be withdrawn.

The office action claims, 1,6 and 15 were rejected under 35 U.S.C. 102 (b) as being anticipated by Lum. To anticipate a claim, the reference must teach every element of the claim, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegall Bros. v. Union Oil Co. of California, 814 F. 2d 628, 631 (Fed. Cir. 1987). Further, to anticipate a claim “[t]he identical invention must be shown in as complete detail as is contained in the...claim.” Richardson v. Suzuki Motor Co., 868 F. 2d 1226, 1236 (Fed. Cir. 1989).

Independent Claim 1 of the present invention recites the method for obtaining an electrical signal from a patient comprising locating a probe for measuring an electrical signal of a dermal area; contacting with an isolation hood of said, the dermal area; actuating a motor feedback loop to apply pressure to a probe tip independent of the pressure on the isolation hood against the skin; and measuring an electrical attribute corresponding to said meridian. Such limitations are supported by the application as originally filed.

In contrast, Applicant respectfully submits that Lum does not teach or suggest such a method as recited in Independent Claim 1 as provided herein. Instead, Lum teaches an apparatus having a shaft that can sense the depth of penetration for penetrating into an object (substrate). The substrate being penetrated has impedance that varies according to the depth under a surface of the substrate. The shaft has a tip for penetration and has conducted the ends near the tip of the shaft. A change of impedance of material of the object between the conductive ends can be sensed to provide information on the depth of penetration. Because Lum discloses a method for sensing the depth of penetration of an object or substrate, Lum fails to teach or fairly suggest the limitations as recited in Claim 1 for contacting a dermal area and applying pressure to a probe tip independent of the pressure of the isolation hood against the skin. That is, Lum discloses a method of sensing the depth of penetration of an object, while, the claims of the present invention recite a method for applying appropriate levels of pressure to the external portion of the dermal area.

Accordingly, Applicant respectfully submits that Lum does not therefore anticipate Claim 1 of the present invention. In addition, Dependent Claims 2-14 place further limitation on otherwise allowable subject matter. Accordingly, Applicant respectfully submits that the cited reference does not anticipate Claims 1-14. Similarly, Applicant respectfully submits that

Independent Claim 15 includes similar limitations, and Lum does not teach, either explicitly or impliedly, every aspect of Claim 15 and therefore does not anticipate Claim 15.

Applicants respectfully submit that Lum does not teach every aspect of the amended claim set as provided herein and therefore does not anticipate the claims of the present invention. In particular,

Accordingly, Applicant respectfully submits that Lum does not teach every aspect of the claims as provided herein and therefore does not anticipate the claims as provided herein. For these reasons and the reasons stated above, rejection of the claims under 35 U.S.C. § 102 is respectfully requested to be withdrawn.

Rejections under 35 U.S.C. 103

Applicant respectfully submits that the claim set as provided herein is not made obvious by the cited reference. The standard for a Section 103 rejection is set for in M.P.E.P 706.02(j), which provides: “To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure.” In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicant respectfully submits that the references cited by the Examiner do not teach or suggest the limitations claimed in the present invention. Independent Claim 1 of the present invention recites the method for obtaining an electrical signal from a patient comprising locating a probe for measuring an electrical signal of a dermal area; contacting with an isolation hood of said, the dermal area; actuating a motor feedback loop to apply pressure to a probe tip independent of the pressure on the isolation hood against the skin; and measuring an electrical attribute corresponding to said meridian. These limitations are supported by the disclosure as originally filed. And, none of the references cited by the Examiner, alone or in combination, teaches or suggests such limitations.

As indicated above, Applicant respectfully submits that because Lum discloses a method for sensing the depth of penetration of an object or substrate, Lum fails to teach or fairly suggest the limitations as recited in Claim 1 for contacting a dermal area and applying pressure to a probe tip independent of the pressure of the isolation hood against the skin. That is, Lum discloses a method of sensing the depth of penetration of an object, while, the claims of the present invention recite a method for applying appropriate levels of pressure to the external portion of the dermal area.

Accordingly, Applicant respectfully submits that for at least the reasons provided herein, the references cited by the Examiner, alone or in combination, do not teach or suggest all the claim limitations of the independent claims. And, since the references cited by the Examiner do not teach or suggest each and every limitation of the independent claims, Applicant respectfully submits that the prior art references do not make obvious the independent claims as provided herein.

And, since the prior art references do not make obvious the independent claims, Applicant respectfully submits that the prior art references cited by the Examiner do not make obvious the corresponding dependent claims, which depend from independent claims 1 or 15.

Thus, Applicants respectfully submits that for at least the reasons provided herein, the claim set as provided herein overcomes all rejections made by the Examiner in the Office Action.

CONCLUSION

In view of the foregoing, Applicants submit that all of the claims are allowable and the application is in condition for allowance. If the Examiner believes that a discussion with Applicants' attorney would be helpful, the Examiner is invited to contact the undersigned.

DATED this 5 day of July, 2006.

Respectfully submitted,



Jarod R. Marrott
Attorney for Applicant
Registration No. 58,577

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 321-5937
Facsimile: (801) 321-4893

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